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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/727,599

12/05/2003

David Carter

87289.1083

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08/08/2005

BAKER & HOSTETLER LLP
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EXAMINER

TANNER, HARRY B

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

T2th

Office Action Summary

Application No.

10/727,599

Applicant(s)

CARTER, DAVID

Examiner

Harry B. Tanner

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Beatenbough. Beatenbough discloses sensing ambient temperature and humidity in order to turn the electric heater 18 of a refrigerator on and off in response to detected dew point to prevent condensation on the door seal mating surface 12 of the refrigerator.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beatenbough in view of Hochheiser. Beatenbough is applied as in the rejection of claim 1 above. Hochheiser teaches the use of a surface temperature sensor 70 in order to determine when the surface temperature of a refrigerator is within a given differential to the dew point of the ambient air (see col. 4, lines 58-68). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Beatenbough such that it included the use of a surface temperature sensor in order to provide a more accurate determination of when the surface temperature of the

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refrigerator is within a given differential to the dew point of the ambient air in view of the teachings of Hochheiser.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beatenbough as applied to claim 1 above, and further in view of Official Notice. Beatenbough does not show door latches for doors 10. Official Notice it taken that door latches including door latch assemblies and door latch assembly covers are well known in the refrigeration art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Beatenbough such that it included the use of door latch assemblies and door latch assembly covers. The location of the temperature and humidity sensors in the door latch assembly is considered to have an obvious matter of engineering design since the operation of the heater control would not be substantially altered with the sensor moved to that location.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beatenbough as applied to claim 1 above, and further in view of Ibrahim. Ibrahim teaches the use of heat from refrigerant gas controlled by an electromechanical valve 84 in order to prevent condensation on the refrigeration system cabinets. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of such that it included the use of heat from refrigerant gas controlled by an electromechanical valve in order to prevent condensation in view of the teachings of Ibrahim.

Applicant's arguments filed 5/26/05 have been fully considered but they are not persuasive. For example, with respect to applicant's contention that Beatenbough is not concerned with controlling the buildup of moisture condensation on the mating surface of the refrigerator door, it is noted that Beatenbough places a heater 18 in direct contact with the mating surface 12 of the refrigerator door 16 (see Figure 2). It is the examiner's position that the heating element 18 on the door jam inherently prevents buildup of moisture on the mating surface of the door. Furthermore, if Beatenbough were only interested in the condensation on the glass 14 of the door there would be no need for a heater on the door jam since the transfer of heat from the door jam to the glass of the door is very inefficient due to the elastic sealing means between the door and door jam.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

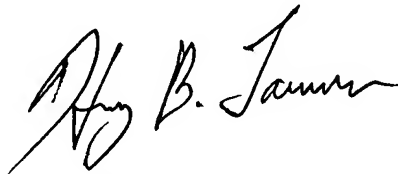
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-

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4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is stylized with a large, looped initial "H" and a cursive "B. Tanner".

Harry B. Tanner
Primary Examiner
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